



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, शनिवार, 16 फरवरी, 2002/27 माघ, 1923

हिमाचल प्रदेश सरकार

STATE ELECTION COMMISSION, HIMACHAL PRADESH

NOTIFICATION

Shimla-171 002, the 13th February, 2002

No. SEC-13-75/2001-181.—Whereas it is considered appropriate, desirable and necessary in the interest of free, fair, smooth, orderly and peaceful conduct of elections to the Municipal Corporation of Shimla, to formulate and issue a model Code of Conduct for guidance and compliance by all concerned.

Now, therefore, in exercise of the powers vesting in it under Article 243 K and 243 ZA of Constitution of India, Section 9 of the Himachal Pradesh Municipal Corporation Act, 1994 and all other powers enabling it in this behalf, the State Election Commission of Himachal Pradesh makes and hereby issues the following Model Code of Conduct, namely, the Himachal Pradesh Municipal Corporation Model Code of Conduct, 2002 :—

MODEL CODE OF CONDUCT

1. *Short Title.*—1.1 (a) This Code shall be called the Himachal Pradesh Municipal Corporation Model Code of Conduct, 2002.

(b) This Code shall apply to elections to Municipal Corporation, Shimla.

2. *Commencement.*—2.1 This Code shall, unless otherwise directed by the Commission, come into force and be applicable on and from the date on which the Commission publishes the election programme :—

Provided that paragraph 1, 2, 3, and 13 of this Code shall come into force and be applicable on and from the 20th February, 2002.

2.2 The Code or any of its paragraphs which have become effective and applicable shall continue to be effective and applicable till the election process is completed.

3. *Definitions.*—3.1 Unless a contrary intention appears from the context, the following words and expressions shall have the meanings assigned to them hereunder :—

- (a) "Act" means the Himachal Pradesh Municipal Corporation Act, 1994 as amended upto date ;
- (b) "Candidate" means a candidate for election to the Municipal Corporation ;
- (c) "Chairman" means a Chairman (and includes a Vice-Chairman) of a Corporation or a company or a board substantially owned or controlled by the Government ;
- (d) "Code" means the Himachal Pradesh Municipal Corporation Model Code of Conduct, 2002 ;
- (e) "Commission" means the State Election Commission of Himachal Pradesh ;
- (f) "Corporation" means the Municipal Corporation of Shimla declared and constituted under the Act ;
- (g) "Councillor" means a councillor elected under the Act ;
- (h) "Deputy Commissioner" means the Deputy Commissioner of Shimla district and includes Additional Deputy Commissioner appointed to perform all or any of the functions of the Deputy Commissioner under the Act ;
- (i) "Election Personnel" means the Deputy Commissioner, Returning Officer, Assistant Returning Officer, Presiding Officer and Polling Officer ;
- (j) "Government" means the Government of the State ;
- (k) "Mayor" means a Councillor elected as Mayor under rule 5 of the Himachal Pradesh Municipal Corporation (Reservation and Elections to the Office of the Mayor and the Deputy Mayor) Rules, 1996 and includes a Deputy Mayor elected under Rule 7 of the Rules ;
- (l) "Minister" means a Minister of the State and includes the Chief Minister, a Minister of State and a Deputy Minister ;
- (m) "Office bearer" includes the Mayor and the Deputy Mayor and the Councillors of the Corporation ;
- (n) "Panchayat" means a Gram Panchayat and includes a Panchayat Samiti and a Zila Parishad constituted under the Himachal Pradesh Panchayati Raj Act, 1994 ;
- (o) "Parliamentary Secretary" means a Parliamentary Secretary of the State and includes a Chief Parliamentary Secretary ;
- (p) "Party" means a group or association of persons whether registered or not, whether recognized or not, and includes a 'Political Party' which means an association or body of individual citizens of India registered as such with the Election Commission of India ;
- (q) "Polling Officer" means person appointed to conduct or to assist in the conduct of election to the Corporation ;
- (r) "Presiding Officer" means a person appointed as Presiding Officer for the conduct of election to the Corporation and includes a person including a Polling Officer authorised to perform all or any of the functions of the Presiding Officer ;

- (s) "Public Servant" includes a Government servant and an employee of the Corporation, a Municipality or a Panchayat or a body corporate substantially owned or controlled by the Government ;
- (t) "Returning Officer" means an Officer appointed to perform the duties of a Returning Officer in connection with the election to the Corporation and includes an Assistant Returning Officer while discharging the duties of Returning Officer for conducting election to the Corporation ; and
- (u) "State" means the State of Himachal Pradesh.

3.2 The words and expressions, not defined herein above, shall have the meaning assigned to them in the Act and the Rules made thereunder.

4. *Canvassing and Public Harmony.*—4.1. No party or candidate shall indulge in any activity which may aggravate existing Differences, create mutual hatred or cause tension between different groups of people on the basis of religion, race, creed, community, language, residence or sex.

4.2. There shall be no appeal on the basis of religion, race, caste, community, or language for securing votes for candidate including oneself or for not voting for a particular candidate.

4.3. Places of worship such as temples, mosques, churches, etc. shall not be used as a forum for election propaganda.

4.4. No criticism of any aspect of the private life of a candidate which is not connected with his public life or activities shall be made, nor any allegation shall be made which is based on unverified facts or incidents. In other words, while reasonable criticism of the political ideology or public conduct of a candidate is permissible a false statement of fact affecting the individual beneath the public man should be avoided.

4.5. Criticism of a Party, when made, shall be confined to its policies and programmes. past record and work and shall not be based on unverified allegations.

4.6. Organising demonstrations or picketing or repeatedly shouting slogans for more than reasonable time before the houses of individuals by way of protesting against their opinions or activities shall not be resorted to under any circumstances.

4.7. All parties and candidates shall void scrupulously all activities which are corrupt practices or electoral offences under the relevant provisions of the Act. These includes *inter alia*, (a) bribery, (b) undue influence, (c) appeal on the basis of religion, race, caste, community or language, (d) promoting enmity or hatred between or among different class of citizens on grounds of religion, race caste community or language, (e) arranging free conveyance for carrying voters to and from a polling station, (g) obtaining assistance of the employees of the Central or State Government or of a local authority. Proof of commission of a corrupt practice may render a candidate liable to be disqualified .

5. *Use of Posters, Flags, Banners, Hoardings etc.*—5.1. No party or candidate shall permit its or his members, supporters or followers to use any private or public property for erecting flag-staffs, pasting notices, posters or slogans, etc. or suspending banners without permission of the owner or manager or the person in possession of the property concern to. The provisions of the Himachal Pradesh Open Places (Prevention of Disfigurement) Act, 1985 may be attracted in an appropriate case.

5.2 No candidate or his workers shall remove or deface the flags flown or posters pasted by another candidate or party.

5.3 No candidate or Party shall carry or allow his or its supporters or workers to carry the effigy of another candidate or Party leader or other prominent person in a procession or burn such effigy in a public place.

5.4 No Party or candidate shall use loudspeakers without obtaining necessary permission from the competent authority. The loudspeakers shall be used only between 7.00 A.M. and 9.00 P.M. or such time as the competent authority might allow.

6. Meetings.—6.1 No candidate or Party shall hold public meetings or rallies or take out processions without prior information to and where necessary without prior permission of the competent authorities. He or it should ascertain in advance whether there are any prohibitory orders or traffic restrictions. It should be ensured that processions of candidates or parties do not clash.

6.2 Election meetings or processions of rival candidate or Party shall not be disturbed by a candidate or Party or his/its workers or supporters.

7. Co-operation with Polling Personnel.—7.1 Every candidate and Party shall Co-operate with the election personnel in holding a peaceful and orderly poll and with those charged with the maintenance of law and order to ensure proper atmosphere before, during and after the poll.

Explanation.—*In this paragraph, the expression "during polling" means the period between the publication of the Election Programme and the declaration of the election result.*

8. Meetings of Government Authorities.—8.1 While granting permission for organizing an election meeting at public place, no distinction should be made between different candidates or parties. In case more than one candidate or Party request for holding meetings at the same place on the same date and at the same time, the permission should be granted to such candidate or Party who had applied first. Other candidate or parties may be granted permission to hold meetings in the order in which they applied in point of time and they should be persuaded to hold such meetings at other place or time.

8.2 Ordinarily, all meetings organized during election should be treated as election meetings and no money of the Government or a local body should be spent on them.

9. Election Expenses.—9.1 No contesting candidate shall incur expenditure in connection with his election in excess of the prescribed limit.

9.2 The contesting candidate to whom paragraph 9.1 applies, shall maintain day-to-day expenditure record in the prescribed proforma.

9.3 Every such candidate shall, within thirty days of the announcement of his election result, submit a true account of election expenditure in the prescribed form to the prescribed authority.

10. Government Machinery.—10.1 (a) A public servant shall remain absolutely impartial during the elections.

(b) He shall not indulge in any election campaign, activity or work for or against any contesting candidate or Party.

10.2 No public servant should organize, address, finance or take active part in any election meeting. This however, does not preclude the discharge of official duties by those charged with the maintenance of public order and management of traffic.

10.3 A public servant shall not accompany a Minister, Member of Parliament or member of Legislative Assembly of the State or participate in any programme organized at an individual house which such dignitary may attend during his election tour.

10.4 Use of rest houses, circuit houses and other Government accommodation should be permitted to all the candidates and parties on the same terms and conditions on which it is permissible for the Party in power. These should normally be permitted to be used for short period and on first come-first serve basis without allowing any one to monopolise the facility. However, no candidate or Party should be allowed to use such building or its precincts for the purpose of election propaganda.

11. Party in Power.—11.1 If a Minister/Parliamentary Secretary/Chairman/Member of Parliament/Member of Legislative Assembly of the State undertakes a tour of any area of the Corporation, such tour shall be deemed to be an election tour and no Government except those who are deployed for security, law and order and traffic management shall accompany the Minister/Parliamentary Secretary/Chairman/Member of Parliament/Member of Legislative Assembly. No Government vehicle or any other facility shall be made available for such tour.

11.2 No vehicles belonging to Government or public undertakings or Co-operative societies or any other institutions receiving Government Grants shall be provided to any Minister/Parliamentary Secretary/Chairman/Member of Parliament/Member of Legislative Assembly or a candidate for canvassing in election in any manner from the date on which the election programme is published.

11.3 A Minister/Parliamentary Secretary/Chairman/Member of Parliament/Member of Legislative Assembly of the State shall not combine his official visit with Electioneering work and shall not make use of official machinery and personnel or other Government resources including Government vehicles for furtherance of interests of any candidate.

11.4 Issue of advertisement at the cost of public exchequer in news paper and other media during the election period for partisan coverage intended to further the prospects of the party in powers shall be scrupulously avoided.

12. Granting or providing benefits.—12.1 Within the territorial jurisdiction of the Corporation the State Government/Minister/Parliamentary Secretary/Member of Parliament/Legislative Assembly/Chairman/Mayour, Councillors of the Corporation and other authorities:—

- (a) shall not sanction or provide any financial grants in Corporation area ;
- (b) shall not sanction or announce or promise any new schemes;
- (c) shall not lay foundation stones of or inaugurate any new scheme or project or promise construction of any road, water supply scheme or other such public facility ;
- (d) shall not make any appointment of any nature including one on *ad hoc*, contract, daily rated basis ;
- (e) shall not selected new beneficiaries for assistance from public funds; and
- (f) promote or transfer personnel.

13. Organisational Status Quo:—13.1 The structural classification of area of the Corporation shall not be altered during a period of one hundred days ending on the date on which

the five years term of the Corporation is due to expire and no decision taken earlier shall be implemented during this period.

14. Before, During and After the Poll.—14.1 No candidate or party shall hold public meetings or take out processions during the period of forty eight hours ending with the hour fixed for the conclusion of poll.

14.2 The identity slip given to voter shall be on plain (white) paper and shall not contain any symbol or name of the candidate. Only the name of the voter, his/her father's/husband's name, ward number, polling booth number and serial number of the voter in the electoral roll shall be written on the identity slip.

14.3 No one shall enter any polling station or place of counting without a pass issued by the Returning Officer except in his capacity as a candidate or a voter intending to cast vote or an authorised agent.

14.4. No candidate's camp shall be set up within a distance of 100 metres from the polling station. Even where more than one polling station has been set up in the same premises, there shall be only one such camp of a candidate for such group of polling stations beyond a distance of hundred metres from such premises.

14.5 No person shall (a) use or operate within or at the entrance of the polling station or in any public or private place in the neighbourhood a megaphone or a loudspeaker; (b) act in a disorderly manner in or near the polling station so as to interfere with the work of the polling Officers on duty.

14.6 No one will obstruct or prevent, by using physical force or otherwise, a voter from entering polling station for casting his vote.

14.7 Any person who fails to obey the lawful directions of the election personnel shall be liable to be removed from the polling station by the police.

14.8 Any person who fraudulently or forcibly takes a ballot paper out of the polling station will be liable to be proceeded against.

15. Assistance.—15.1 Candidates or their election agents may, when necessary give specific complaint or report difficulties regarding the conduct of elections to the Returning Officer or to the Observers, if any, appointed by the Commission.

15.2 It would be in the interest of the candidate to ensure compliance with the Code otherwise he may, if elected, render himself liable to be disqualified or be unseated on an election petition in the event of the breach of a legal provisions.

16. Consequence of Violation.—16.1 The violation of most of these provisions constitutes an offence which may render the person violating these liable to be prosecuted in a court of law.

17. Repeal.—17.1 The Code of conduct earlier formulated and circulated vide this Commission's letter No. SEC-13-55/98 dated 26-4-1997 is hereby repealed.

By order,

K. C. SHARMA,
State Election Commissioner,
Himachal Pradesh.